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RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE - EXAMINING GROUP 1640

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	David Duhl et al.
Application No.	:	09/602,597
Filed	:	June 22, 2000
For	:	HUMAN CHROMOSOME 16 PLASMOLIPIN-LIKE POLYPEPTIDE (as amended)

Examiner	:	Sandra Wegert
Art Unit	:	1647
Docket No.	:	PP-01568.002/200130.472

Box AF
Commissioner for Patents
Washington, DC 20231

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DECLARATION UNDER 37 C.F.R. § 1.132

I, David Duhl, do hereby declare and state as follows:

1. I am a Associate Director Chiron Corporation, and my curriculum vitae is attached as Exhibit 1.

2. In my capacity as a Molecular Biologist I am familiar with methods of identifying and characterizing proteins based on homology to known proteins, using algorithms and methods well-known to those of ordinary skill in the art.

3. On information and belief, applicants have identified a polynucleotide (referred to as SEQ ID NO:3 in U.S. Application Serial No. 09/602,597) that, according to the application, is homologous to rat plasmolipin.

4. On information and belief, the identification of SEQ ID NO:3 as encoding human plasmolipin is based on the discovery that SEQ ID NO:3 has about 85% identity with rat plasmolipin (specification at page 5, lines 9-12). At the amino acid level, applicants' sequence (SEQ ID NO:4) has about 89% identity with rat plasmolipin (specification at page 5, lines 12-13). Specifically, SEQ ID NO:4 shares 140/157 amino acids with art plasmolipin, over the region of amino acids 27 and 181 of SEQ ID NO:4. The alignment is shown in Exhibit 2, attached. The top lines (Query) represent applicants' SEQ ID NO:4, and the lower lines (Sbjct) represent rat plasmolipin, as shown in U.S. Patent No. 5,843,714 as Sequence GI1346732.

5. As one of skill in this art, I agree that, based on the alignment and the percent identity, SEQ ID NO:4 represents a plasmolipin protein. Further as one of skill in this art, it is my opinion that the evidence that SEQ ID NO:4 represents a plasmolipin molecule is credible and does not require additional functional assays for confirmation purposes.

6. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code, and may jeopardize the validity of any patent issuing from this patent application.

David Duhl

David Duhl

Date 4/30/02